



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 5

77 WEST JACKSON BOULEVARD

CHICAGO, IL 60604-3590

FEB 4 2010

REPLY TO THE ATTENTION OF:

AE-17J

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Charles Koontz
Winnebago Energy Center, LLC
1716 Lawrence Drive
DePere, Wisconsin 54115

Re: Notice and Finding of Violation
Winnebago Energy Center, LLC
Rockford, Illinois

Dear Mr. Koontz:

The United States Environmental Protection Agency (U.S. EPA) is issuing the enclosed Notice and Finding of Violation (NOV/FOV) to Winnebago Energy Center, LLC. (WEC). The NOV/FOV is being issued under Section 113(a) of the Clean Air Act, 42 U.S.C. § 7413(a). We find that you are in violation of the terms of the Illinois State Implementation Plan (SIP) and Construction Permit at your Rockford, Illinois facility.

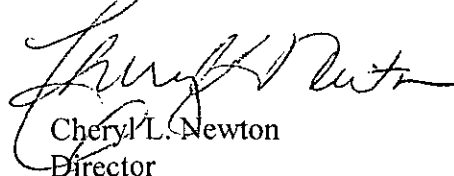
We are offering you an opportunity to confer with us about the violations alleged in the NOV/FOV. The conference will give you the opportunity to present information on the specific findings of violation, the efforts you have taken to comply, and the steps you will take to prevent future violations.

Please plan for your facility's technical and management personnel to attend the conference to discuss compliance measures and commitments. You may have an attorney represent you at this conference.

The technical contact in this matter is Joseph Ulfig. You may call him at (312) 353-8205 to request a conference. You should make the request as soon as possible, but no later than 10 calendar days after you receive this letter.

We should hold any conference within 30 calendar days of your receipt of this letter.

Sincerely,

A handwritten signature in black ink, appearing to read "Cheryl L. Newton", written over the printed name.

Cheryl L. Newton
Director

Air and Radiation Division

Enclosure

cc: Ray Pilapil, Manager
Compliance and Systems Management Section
Illinois Environmental Protection Agency

**United States Environmental Protection Agency
Region 5**

IN THE MATTER OF:)	NOTICE AND FINDING OF
)	VIOLATION
Winnebago Energy Center, LLC)	
Rockford, Illinois)	EPA-5-10-06-IL
)	
)	
Proceedings Pursuant to)	
the Clean Air Act,)	
42 U.S.C. §§ 7401 <u>et seq.</u>)	

NOTICE AND FINDING OF VIOLATION

The Administrator of the United States Environmental Protection Agency (U.S. EPA) is issuing this Notice and Finding of Violation under Section 113(a) of the Clean Air Act (CAA), 42 U.S.C. § 7413(a). U.S. EPA finds that Winnebago Energy Center (WEC) in Rockford, Illinois, is violating the Illinois State Implementation Plan (SIP) and Construction Permit, No. 07030094, as follows:

Regulatory Authority

1. Section 113(a) of the CAA, 42 U.S.C. § 7413(a), authorizes the Administrator to initiate an enforcement action whenever, among other things, the Administrator finds that any person has violated or is in violation of a requirement or prohibition of an applicable implementation plan or permit.
2. On May 31, 1972, U.S. EPA approved Illinois PCB Rule 101 (35 IAC § 201.102), as part of the federally enforceable SIP for the State of Illinois. 37 Fed. Reg. 10842. This rule deals with sources causing an odor nuisance.
3. On February 21, 1980, U.S. EPA approved 35 Illinois Administrative Code (IAC) Part 214, as part of the federally enforceable SIP for Illinois. 45 Fed. Reg. 11472. This Part contains standards and limitations for emissions of sulfur dioxide from process emission sources located in Illinois.

WEC's Facility

4. WEC owns and operates a landfill-gas-to-energy plant at the Pagel Landfill, 8403 Lindenwood Road in Rockford, Illinois (the Facility) . This plant consists of four landfill gas powered reciprocating engines.
5. Illinois Environmental Protection Agency (IEPA) issued a Construction Permit (No. 07030094) to WEC for the Facility on May 25, 2007.
6. Condition 2(b) of the Construction Permit prohibits the emission of sulfur dioxide from the Facility's engines exceeding 2,000 ppm, pursuant to 35 IAC § 214.301.
7. Condition 4(b)(ii) of the Facility's Construction Permit requires WEC to undertake further actions for the Facility as may be needed to eliminate air pollution, including nuisance due to odors, such as implementation of additional measures to assure that the operation of the Facility does not interfere with effective capture and control of landfill gas (LFG) at the source.
8. Condition 6(b) of the Facility's Construction Permit prohibits the emission of sulfur dioxide in excess of 0.28 pounds per hour and 1.23 tons per year from each engine, and 4.94 tons per year in aggregate from all four engines.
9. The rule at 35 IAC § 201.141 provides that no person shall cause or threaten or allow the discharge or emission of any contaminant into the environment in any State so as, either alone or in combination with contaminants from other sources, to cause or tend to cause air pollution in Illinois.
10. The rule at 35 IAC § 201.102 defines air pollution as "the presence in the atmosphere of one or more air contaminants in sufficient quantities and of such characteristics and duration as to be injurious to human, plant or animal life, to health, or to property, or to unreasonably interfere with the enjoyment of life or property."
11. On July 7, 2009, WEC reported to IEPA that total reduced sulfur compound testing done on landfill gas used at the Facility demonstrated higher levels of total reduced sulfur compounds than WEC expected, and that WEC may not be in compliance with the sulfur limitations found in Condition 6(b) of the facility's Construction Permit.
12. On July 24, 2009, the operator of the Pagel Landfill, Winnebago Reclamation Service, submitted an Excess Emission Report to IEPA regarding the landfill's compliance with its Title V Operating Permit's sulfur dioxide emission standards. This report states that landfill gas samples taken in June and July of 2009 showed that concentrations of total reduced sulfur compounds were present in the landfill gas in concentrations of 2,600 and 2,371 ppm.
13. On July 28, 2009, WEC submitted a letter to IEPA noting that the elevated concentrations of sulfur compounds found in the landfill gas may have caused the engines to exceed the hourly

and yearly emission limits for each engine, as well as the aggregate emission limit for all four engines since August of 2008.

Violations

14. By emitting sulfur dioxide in concentrations greater than 2,000 ppm from its engines at the Facility, WEC is in violation of Condition 2(b) of its Construction Permit and 35 IAC § 214.301.

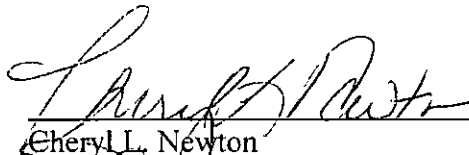
15. By failing to undertake further actions as may be needed to eliminate air pollution from the Facility, WEC is in violation of Condition 4(b)(ii) of its Construction Permit.

16. By emitting sulfur dioxide in excess of 0.28 pounds per hour and 1.23 tons per year from each engine, and 4.94 tons per year in aggregate from all four engines at the Facility, WEC is in violation of Condition 6(b) of its Construction Permit.

17. By causing, threatening, or allowing the discharge or emission of any contaminant into the environment so as, either alone or in combination with contaminants from other sources, to cause or tend to cause air pollution in Illinois, WEC is in violation of 35 IAC § 201.141.

18. The Facility's violation of its Construction Permit and the SIP constitutes a violation of section 502 of the CAA and 40 C.F.R. § 70.7(b).

2/4/10
Date


Cheryl L. Newton
Director
Air and Radiation Division

CERTIFICATE OF MAILING


I, Betty Williams, do hereby certify that a Notice and Finding of Violation of the Clean Air Act was sent by Certified Mail, Return Receipt Requested, to:

Charles Koontz
Winnebago Energy Center, LLC
1716 Lawrence Drive
DePere, Wisconsin 54115

I also certify that I sent copies of the Notice and Finding of Violation by first class mail to:

Ray Pilapil, Manager
Bureau of Air
Compliance and Enforcement Section
Illinois Environmental Protection Agency
1021 North Grand Avenue East
Springfield, Illinois 62702

on the 4th day of February, 2010.



Betty Williams
Administrative Program Assistant
AECAS (IL/IN)

CERTIFIED MAIL RECEIPT NUMBER: 70091680000076665209